



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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July 1, 2008

Mr. Robert Buckingham
Community Development Authority of the
City of Neenah
211 Walnut St
Neenah, WI 54956

Winnebago County
FID: 471031660
WDNR VPLE #: 06-71-551109
WDNR Gen Prop #: 07-71-550924

Subject: Conditional Case-by-Case Grant of Exemption for the Demolition of Above-Grade
Structures on a Property Where Solid Waste has been Disposed,
201, 207 and 225 W. Wisconsin St., Neenah, WI

Dear Mr. Buckingham:

We have reviewed your request dated June 9, 2008 and addendums dated June 26, 2008 and June 30, 2008 for a grant of exemption from regulation under s. NR 506.085, Wis. Adm. Code. Based on that evaluation, the Department is issuing this general grant of exemption from the prohibitions contained in s. NR 506.085, Wis. Adm. Code. You must comply with the conditions of this grant of exemption in order to maintain the exemption. This grant of exemption is limited to the proposed changes described in your application and within the property boundaries proposed. If you are considering additional changes beyond those described in the application, a new application must be submitted to the department for approval.

Please review the information contained in the publication *Development at Historic Fill Sites and Licensed Landfills: Considerations and Potential Problems PUB-RR-685* to assist you in preventing environmental or safety problems during and after demolition. We would like to particularly draw your attention to the public safety risk posed by the explosive potential for methane gas that may be present on a property due to the presence of decomposing solid waste.

You are reminded that this approval does not relieve you of obligations to meet all other applicable federal, state and local permits, as well as zoning and regulatory requirements. If you have any questions concerning this letter, please contact Jennifer Borski at (920) 424-7887 or by email to jennifer.borski@wisconsin.gov.

Sincerely,

Bruce Urban
Remediation and Redevelopment Program Supervisor, Northeast Region

c: William P. Scott, Gonzalez Saggio & Harlan, 225 E Michigan St, Fourth Floor, Milwaukee, WI 53202
Skip Glor, Northern Environmental, 12075 Corporate Parkway, STE 210, Mequon, WI 53092
Chris Haese, Principal Planner, City of Neenah, PO Box 426, Neenah, WI 54957-0426
J. Borski – DNR, Oshkosh
File copy- WMM/3, Madison and WMM, Green Bay

BEFORE THE
STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

CONDITIONAL GRANT OF EXEMPTION
FOR
DEMOLITION OF ABOVE-GRADE STRUCTURES ON A PROPERTY
WHERE SOLID WASTE HAS BEEN DISPOSED

FINDINGS OF FACT

The Department finds that:

1. The Community Development Authority of the City of Neenah owns the property located at 201, 207 and 225 West Wisconsin Avenue, Neenah, Wisconsin.
2. Solid waste has been disposed of at this property and remains at this property.
3. The Community Development Authority of the City of Neenah has submitted a request dated June 9, 2008 and addendums dated June 26, 2008 and June 30, 2008 for an exemption from the prohibition in NR 506.085, Wis. Adm. Code. The request has been submitted under the seal of a professional engineer or a professional geologist relating to the proposed demolition and the environmental conditions at the property.
4. Based upon the information provided to the Department, the proposed demolition of above-grade structures at the property is not expected to cause future exceedances of applicable soil and groundwater standards.
5. Additional documents considered in review of the exemption request include the following:
 - *Phase II Environmental Site Assessment*, dated January 8, 2008, submitted by Northern Environmental.
 - June 24, 2008, 4:57 PM electronic mail from Bill Scott (Gonzalez Saggio & Harlan LLP) to Jennifer Borski (Department) and titled *Re: City of Neenah Construction Site NOI – FIN39487*
 - Additional information hand-delivered June 30, 2008 by Northern Environmental that includes the following: Professional Certification for the January 8, 2008 *Phase II ESA*, updated Tables 1a, 1b, 2a, 2b and 3, updated Figures 5 (cross section A-A'), Figure 6 (cross section B-B'), Figure 7 (cross section C-C') and Figure 8 (cross section D-D') and signed soil boring logs for B-1 through B-22 from the January 8, 2008 *Phase II ESA*; new Figure 1 (Known "Significant Soil Contamination), Figure 2 (Known "Significant" Groundwater Contamination) and Figure 3 (Boring and Monitoring Well Locations).
6. Additional facts relevant to the review of the grant of exemption modification request include the following:
 - Delineation of solid waste and the NR 716, Wis. Adm. Code Site Investigation of the property is not complete.

- The application is specific to "demolition of all existing structures" within the property boundaries.
 - Sub-grade foundation walls and basement floors are planned to remain in place during this phase of redevelopment as stated in Exhibit V. C, item 7g and are not a part of this conditional grant of exemption.
 - Removal of ash fill is not planned as stated in Exhibit V. C, item 9 and is not a part of this conditional grant of exemption.
 - Detailed redevelopment plans have not yet been submitted to the Department and are not part of this conditional grant of exemption.
 - The State Historical Society has identified buildings 17, 40 and 41 as historic buildings at 225, 207 and 201 W Wisconsin Ave, respectively.
7. If the conditions set forth below are complied with, the demolition of above-grade structures on the property will not result in environmental pollution as defined in ss. 289.01(8) and 299.01(4), Wis. Stats.

CONCLUSIONS OF LAW

1. The Department has the authority under s. NR 500.08(4), Wis. Adm. Code to issue an exemption from the prohibition in s. NR 506.085, Wis. Adm. Code, if the proposed demolition will not cause environmental pollution as defined in ss. 289.01(8) and 299.01(4), Wis. Stats.
2. The Department has authority to approve a grant of exemption with conditions if the conditions are necessary to ensure compliance with the applicable provisions of chapters NR 500 to 538, Wis. Adm. Code, or to assure that environmental pollution will not occur.
3. The conditions set forth below are necessary to ensure compliance with the applicable provisions of chapters NR 500 to 538, Wis. Adm. Code, and to assure that environmental pollution will not occur.
4. In accordance with the foregoing, the Department has the authority under s. NR 500.08(4), Wis. Adm. Code, to issue the following conditional grant of exemption.

CONDITIONAL GRANT OF EXEMPTION

The Department hereby issues an exemption from the prohibition in s. NR 506.085, Wis. Adm. Code for demolition of above-grade structures on a property which contains solid waste as proposed in the submittal dated June 9, 2008, subject to the following conditions:

1. No action related to the demolition of above-grade structures on the property may be taken which will cause a significant adverse impact on wetlands as provided in ch. NR 103, Wis. Adm. Code.
2. No action related to the demolition of above-grade structures on the property may be taken which will cause a significant adverse impact on critical habitat areas, as defined in s. NR 500.03(55), Wis. Adm. Code.

3. No action related to the demolition of above-grade structures on the property may be taken which will cause a detrimental effect on any surface water, as defined in s. NR 500.03(62), Wis. Adm. Code.
4. No action related to the demolition of above-grade structures on the property may be taken which will cause a detrimental effect on groundwater, as defined in s. NR 500.03(62), Wis. Adm. Code, or will cause or exacerbate an attainment or exceedance of any preventive action limit or enforcement standard at a point of standards application as defined in ch. NR 140, Wis. Adm. Code.
5. No action related to the demolition of above-grade structures on the property may be taken which will cause a migration and concentration of explosive gases in any structures in excess of 25% of the lower explosive limit for such gases at any time. No actions may be taken which will cause a migration and concentration of explosive gases in the soils outside of the limits of solid waste disposal within 200 feet of the property boundary or beyond the property boundary in excess of the lower explosive limit for such gases at any time. No actions may be taken which will cause a migration and concentration of explosive gases in the air outside of the limits of solid waste disposal within 200 feet of the landfill boundary or beyond the landfill property boundary in excess of the lower explosive limit for such gases at any time.
6. No action related to the demolition of above-grade structures on the property may be taken which will cause an emission of any hazardous air contaminant exceeding the limitations for those substances contained in s. NR 445.03, Wis Adm. Code.
7. No action related to the demolition of above-grade structures on the property may be taken which will cause an exceedance of a soil clean up standard in ch. NR 720, Wis. Adm. Code.
8. This exemption shall transfer with changes in property ownership. In accordance with s.289.46(2), Stats., any person having or acquiring rights of ownership in land where a solid or hazardous waste disposal facility was previously operated may not undertake any activities on the land which interfere with the closed facility causing a significant threat to public health, safety or welfare. The Department of Natural Resources should be contacted to discuss any proposed changes to avoid activities that could violate the statute.
9. This grant of exemption is limited to the proposed changes described in your application. If you are considering additional changes beyond those described in the application, a new application must be submitted to the department for approval.
10. Exemption for demolition of buildings 17, 40 and 41 are contingent upon approval from the State Historical Society. Transportation of buildings 17, 40 or 41 as opposed to demolition of above-grade portions, may require a separate exemption application if the existing land cover will be altered.
11. Removal of at-grade or sub-grade structures or any development on the property must be reviewed under a separate application. This includes, but is not limited to,

subsequent work to cover ash fill to raise the grade as stated in Exhibit V. C., item 9 and plans to rebuild the steam line as stated in Exhibit V. C, item 10.

The Department reserves the right to require the submittal of additional information and to modify this grant of exemption at any time, if in the Department's opinion, modifications are necessary. Unless specifically noted, the conditions of this grant of exemption do not supersede or replace any previous conditions of approval for this property.

NOTICE OF APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions must be filed.

For judicial review of a decision pursuant to section 227.52 and 227.53, Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review shall name the Department of Natural Resources as the respondent.

Dated: 7/1/08

DEPARTMENT OF NATURAL RESOURCES
For the Secretary



Bruce G. Urban
Northeast Region



Jennifer Borski, Hydrogeologist
Northeast Region